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BF Case 3:03
ORIGINAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

DIANE A. NOYES,

Plaintiff,

V.

Civil Action No. 3:03-CV-0535-G

**JO ANNE B. BARNHART,
Commissioner of Social Security
Administration.**

Defendant.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Pursuant to the District Court's Order of Reference, entered March 17, 2003, Plaintiff's social security appeal, filed March 12, 2003, has been referred to the United States Magistrate Judge for hearing, if necessary, and recommendation. This Court held a hearing on this matter on March 16, 2005. In summary, this Court concluded that: (1) the Administrative Law Judge ("ALJ") applied the appropriate legal standard in finding that Plaintiff retains the mental residual functional capacity ("RFC") to perform low stress work, and (2) the ALJ's finding that Plaintiff retains the mental RFC to perform work eight hours a day, five days a week, and to sustain such full time employment is supported by substantial evidence. For the reasons stated on the record and incorporated herein, this Court recommends that the final decision of the Commissioner of Social Security Administration be **AFFIRMED**.

SO RECOMMENDED. March 29, 2005.

PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE

INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT

Pursuant to Title 28, United States Code, Section 636(b)(1), any party who desires to object to these findings, conclusions, and recommendation must file and serve written objections within ten days after being served with a copy. A party filing objections must specifically identify those findings, conclusions, or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory, or general objections. A party's failure to file such written objections to these proposed findings, conclusions, and recommendation shall bar that party from a *de novo* determination by the District Court. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985); *Perales v. Casillas*, 950 F.2d 1066, 1070 (5th Cir. 1992). Additionally, any failure to file written objections to the proposed findings, conclusions, and recommendation within ten days after being served with a copy shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc).



PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE